

AGREEMENT TO SELL AND PURCHASE

AND RECEIPT FOR EARNEST MONEY COMMERCIAL AND INVESTMENT PROPERTIES

Date 3/5/26

THE EXECUTION OF THIS AGREEMENT HAS IMPORTANT LEGAL CONSEQUENCES AND THE PARTIES SHOULD SEEK COMPETENT LEGAL ADVICE IF NOT UNDERSTOOD. THIS IS A LEGAL AND BINDING CONTRACT.

1. PARTIES AND PROPERTY:

Art House Management LLC and/or assigns Buyer, taking title as:

Joint tenants with rights of survivorship, Tenants in common, Single in his/her own name, Other _____

agrees to buy, and the Seller agrees to sell on the terms and conditions set forth in this Contract, the following described real property

in the City of **Billings** County of **Yellowstone** State of **Montana**

Property commonly known as: **2810 1/2 2nd Ave N (Unit 1A)**

Legal description of the Property: **See Exhibit A**

If the legal description of the Property is not complete or is inaccurate, this Agreement shall not be invalid and the legal description shall be completed or corrected to meet the requirements of the title company referred to in Section 10.

2. PURCHASE PRICE AND TERMS:

The purchase price shall be \$ 1 payable in U.S. Dollars by Buyer as follows:

\$ 0 (A) Earnest Money in the form of Personal Check Cashiers Check Other To be:

1) Held and not deposited until acceptance by all _____ parties.
 2) Deposited within 3 business days of acceptance. _____

Earnest Money to be held by **FMT** Broker Attorney Title Company
in a trust account on behalf of both Seller and Buyer. Broker is authorized to deliver the earnest money deposit to the closing agent, if any, at or before closing. Parties agree that interest accruing on earnest money, if any, while deposited shall be payable to Broker in consideration for services rendered. The undersigned sales representative hereby acknowledges receipt from Buyer of the above noted Earnest Money. _____

\$ \$1 (B) Cash at closing, plus Buyer's closing costs, to be paid by Buyer at closing by cashier, certified check or electronic funds.

\$ _____ (C) Seller to finance Buyer's purchase under the following terms and conditions: _____

\$ _____ (D) Assumption of Existing Financing: _____

\$ 1 TOTAL PURCHASE PRICE

Additional Provisions:

Buyer and Seller agree to terminate existing Babcock Theater Lease Agreement (effective date 11/1/18), effective on the date of Closing. Seller to provide termination documents for Buyer review 30 days prior to Closing.

The City of Billings shall fully participate in collecting any and all insurance proceeds from any insurers, policies, and claims that may provide coverage for the May 28, 2025, date of loss, including but not limited to AmTrust Financial Services Claim No. 4018736-1 ("Claim") to the extent necessary at the request of Art House Billings.

The City of Billings foregoes any entitlement to any insurance proceeds from the Claim and any other claims stemming from the May, 28, 2025, date of loss and assigns any and all rights to any insurance proceeds stemming from the Claim or any other claims to Art House Billings related to the May 28, 2025, date of loss. City of Billings

Buyer receipt of acceptable loan commitment and appraisal

Buyer review and approval of all insurance proceeds and related processes from the City of Billings and Widmyer Corporation. Any other due diligence the Buyer deems necessary.

Buyer agrees to diligently pursue each contingency checked. If Buyer shall fail to notify its Broker, Seller, or Seller's Broker, in writing, by the date noted above that the contingencies checked have not been satisfied then it shall be conclusively presumed that the Buyer has waived those contingencies for which no notice has been given. If Buyer, after due diligence, shall timely Notify Seller, Buyer's Broker or Seller's Broker, in writing, of a deficiency, then in such event this Agreement shall terminate and Buyer shall be entitled to prompt return of Buyer's Earnest Money deposit, less escrow holder or title cancellation fees

The Seller shall have the option of:

- a) Making said items operational
- b) Giving the Buyer(s) a credit for the items, or
- c) Canceling the Agreement to Sell and Purchase and refunding to the Buyer(s) any Earnest Money deposit or similar payments previously made to Seller.

Should Seller cancel the Agreement because of environmental condition, then Seller shall, shall not pay, or reimburse Buyer for the cost of the Phase One Environmental Audit

7. CONDITION OF PROPERTY AND RELATED ISSUES:

Seller agrees that the Property shall be in the same condition, broom clean, normal wear and tear excepted, from the date of the execution of this Agreement up to the time Buyer takes possession of the Property. Seller has no knowledge of any notice of violations of City, County, State, Federal, Building Zoning, Fire, Health Codes or ordinances, condemnation, hazardous waste, underground storage tanks, special improvement districts or other governmental regulation filed or issued against the Property, except noted herein:

If the property is damaged by fire, hail, or other casualty prior to time of closing. Seller shall be, shall not be obligated to repair the same **before the date of closing**. If such damage is not repaired within said time, this Contract may be terminated at the option of the Buyer and the Earnest Money shall be returned to Buyer. Should Buyer elect to carry out the Contract despite such damage, Buyer shall be entitled to credit for all the insurance proceeds resulting from such damage to the Property and Inclusions, not exceeding, however, the total purchase price. Should any Inclusion(s) or service(s) fail or be damaged between the date of this Contract and the date of closing or the date of possession, whichever shall be earlier, then Seller shall be liable for the repair or replacement of such Inclusion(s) or service(s) with a unit of similar size, age, and quality, or an equivalent credit, less any insurance proceeds received by Buyer covering such repair or replacement. **Buyer agrees to accept property in "AS IS, WHERE IS" condition except as herein provided.**

8. ASSIGNABILITY:

~~This Contract shall not be assignable by Buyer without Seller's prior written consent, which assignment shall not be unreasonably withheld by Seller. Except as so restricted, this Contract shall inure to the benefit of and be binding upon the heirs, personal representatives, successors and assigns of the parties.~~

9. CONVEYANCE:

Seller shall convey the real Property by Condo Deed including all interest of Seller in vacated alleys and streets, easements, other apportionments and improvements free of all liens and encumbrances except those described in the title insurance section of this agreement, and reservations or conveyances of record. All water rights, entitlements, claims, certificates and permits are included with the property, **with any transfer fees split equally.**

10. TITLE INSURANCE:

Seller, at Seller's expense, shall furnish Buyer title insurance from FMT (Title Company) pursuant to a standard form American Land Title Association title insurance commitment in the amount equal to the purchase price, committing to insure merchantable title to the real Property in Buyer's name, free and clear of all liens and encumbrances except: encumbrances hereinabove mentioned, zoning ordinances, building and use restrictions, reservations and exceptions in patents from the United States and the State of Montana, all standard ALTA exceptions, beneficial utility easements apparent or of record, other easements of record, real estate taxes for the year in which closing occurs, Special Improvement Districts (including rural SID's) either noticed to seller by the city / county but not spread, or currently assessed, if any which will be:

PAID OFF BY SELLER AT CLOSING

ASSUMED BY BUYER AT CLOSING,

The following loans NA the following leases NA should be assigned to Buyer at closing. If the Seller's title is not merchantable and cannot be made merchantable before the stated closing date, 30 ADDITIONAL DAYS SHALL BE ALLOWED FOR THE SELLER TO MAKE SUCH TITLE MERCHANTABLE. If at that time the title is still not merchantable, this Contract may be terminated by Buyer with no penalty, and the earnest money will be returned to Buyer. Encumbrances to be discharged by Seller shall either be satisfied prior to closing or from Sellers' proceeds at time of closing.

11. TAX DEFERRED EXCHANGE: (check, where applicable)

Buyer herein acknowledges that it is the intention of Seller to create IRC Section 1031 tax deferred exchange and that Seller's rights and obligations under this agreement may be assigned to facilitate such exchange. Buyer agrees to cooperate with Seller in any manner necessary to enable Seller to qualify for said exchange at no additional cost or liability to Buyer, including the execution of an Assignment Agreement.

Seller herein acknowledges that it is the intention of Buyer to complete IRC Section 1031 tax deferred exchange and that Buyer may assign his rights and obligations under this agreement for the purpose of completing such exchange. Seller agrees to cooperate with Buyer in any manner necessary in order to complete said exchange at no additional cost or liability to Seller, including the execution of an Assignment Agreement.

12. STATUTORY DISCLOSURES:

METHAMPHETAMINE: If the property is inhabitable real property, the Seller represents to the best of Seller's knowledge that the Property has has not been used as a clandestine Methamphetamine drug lab. If the Property has been used as a clandestine Methamphetamine drug lab Seller agrees to execute and provide any documents or other information that may be required under Montana law concerning the use of the Property as a clandestine Methamphetamine drug lab.

RADON: Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal guidelines have been found in buildings in Montana. Additional information regarding radon and radon testing may be obtained from your county or state public health unit. Buyer acknowledges receipt of a copy of this statement prior to entering into the agreement to sell and purchase – commercial

If the Property is inhabitable real property as defined in the Montana Radon Control Act, Seller(s) represent that to the best of Seller's knowledge the Property has has not been tested for radon gas and/or radon progeny and the Property has has not received mitigation or treatment for the same. If the Property has been tested for radon gas and/or radon progeny, Seller agrees to provide, as available, test results to Broker along with any evidence of mitigation or treatment.

LEAD-BASED PAINT: If a residential dwelling exists on the Property and was built before the year 1978, the Seller has has no knowledge of lead-based paint and/or lead-based paint hazards on the Property. If Seller has knowledge of lead-based paint and/or lead-based paint hazards on the Property Seller agrees to provide all pertinent reports and records concerning that knowledge. Seller acknowledges that the Broker has advised the Seller of Seller's obligation to make lead-based paint disclosures and Broker's obligation to ensure that the Seller satisfies this obligation.

MOLD: If the Property is inhabitable real property as defined in the Montana Mold Disclosure Act the Seller represents to the best of Seller's knowledge that the Property has has not been tested for mold and that the Property has has not received mitigation or treatment for mold. If the Property has been tested for mold or has received mitigation or treatment for mold Seller agrees to provide any documents or other information that may be required under Montana law concerning such testing, treatment or mitigation.

MEGAN'S LAW: Pursuant to the provisions of Title 46, Chapter 23, Part 5 of the Montana Code Annotated, certain individuals are required to register their address with the local law enforcement agencies as part of Montana's Sexual and Violent Offender Registration Act. In some communities, law enforcement offices will make the information concerning registered offenders available to the public. If you desire further information please contact the local County Sheriff's office, the Montana Department of Justice, in Helena, Montana, and the probation officers assigned to the area.

13. TIME OF ESSENCE / REMEDIES:

Time is of the essence hereof. If any note or check received as Earnest Money hereunder or any other payment due hereunder is not paid, honored or tendered when due, or if any other obligation hereunder is not performed or waived as herein provided, there shall be the following remedies:

(A) If Buyer is in default: If Seller accepts the offer contained in this Agreement and Buyer refuses or neglects to consummate the transaction within the time period provided in this agreement, Seller may:

- 1) Declare the earnest money paid by Buyer to Broker to be forfeited to Seller as liquidated damages, which sum the parties agree is a reasonable sum, as the actual damages to Seller would be extremely difficult or impractical to ascertain; **or**
- 2) Demand that Buyer specifically perform Buyer's duties and obligations under this Agreement; **or**
- 3) Demand Buyer pay monetary damages for Buyer's failure to perform the terms of this Agreement.

(B) If Seller is in default: If Seller fails to accept the offer contained in this Agreement within the time period provided, all earnest moneys shall be returned to Buyer. If Seller accepts the offer contained in this Agreement but refuses or neglects to consummate the transaction within the time period provided in this Agreement, Buyer may:

- 1) Demand immediate repayment of all moneys that Buyer has paid to Broker as earnest money, and upon return of such money the rights and duties of Buyer and Seller under this agreement shall be terminated.
- 2) Demand that Seller specifically perform Seller's obligations under this Agreement; **or**
- 3) Demand monetary damages from Seller for Seller's failure to perform the terms of this Agreement.

14. EARNEST MONEY DISPUTE:

Notwithstanding any termination of this Contract, Buyer and Seller agree that, in the event of any controversy regarding the Earnest Money and things of value held by Broker or Closing Agent, unless mutual written instructions are received by the holder of the Earnest Money and things of value, Broker or Closing Agent shall not be required to take any action but may await any proceeding, or at Broker's or Closing Agent's option and sole discretion, may interplead all parties and deposit any moneys or things of value into a court of competent jurisdiction and shall recover court costs and reasonable attorney fees.

15. BUYER'S CERTIFICATION:

By entering into this Agreement, each person or persons executing this Agreement as Buyer represents that he/she is eighteen (18) years of age or older, of sound mind, and legally competent to own real property in the State of Montana; and if acting on behalf of a corporation, partnership, or other non-human entity, that he/ she is duly authorized to enter into the Agreement on behalf of such entity.

16. SELLER'S CERTIFICATION:

By entering into this Agreement, each person or persons executing this Agreement as Seller represents that he/she is eighteen (18) years of age or older, of sound mind, and legally entitled at this time to transfer title to the real property free and clear of all liens and encumbrances except those described in this Agreement; and if acting on behalf of a corporation, partnership, or other non-human entity, that he/she is duly authorized to enter into the Agreement on behalf of such entity.

17. ALTERNATIVE DISPUTE RESOLUTION:

MEDIATION: If a dispute arises between the parties relating to this Contract, the parties may agree to submit the dispute to mediation. The parties may jointly appoint an acceptable mediator and may share equally in the cost of such mediator. If mediator proves unsuccessful, the parties may then proceed with such other means of dispute resolution as they so chose.

18. ATTORNEY'S FEES:

If either party defaults in its performance of this Agreement and the other party employs an attorney because of such default, the defaulting party agrees to pay, on demand, all costs, charges, and expenses, including reasonable attorney's fees, reasonably incurred at any time by the other party because of the default.

19. ENTIRE CONTRACT:

All prior Agreements between the parties are incorporated in this Agreement, which constitutes the entire Contract. Its terms are intended by the parties as a final expression of their Agreement with respect to such terms as are included herein and may not be contradicted by evidence of any prior Agreement or contemporaneous oral Agreement. The parties further intend that this Agreement constitutes the complete and exclusive statement of its terms and that no extrinsic evidence whatsoever may be introduced in any judicial or arbitration proceeding, if any involving this Agreement. If any portion of this Agreement shall be held to be void or unenforceable, the balance hereof shall nonetheless be effective. This Agreement shall be governed by the laws of the State of Montana and shall be binding upon the heirs, successors and permit assigns of the parties.

20. BROKER RELATIONSHIPS: The following agency relationship(s) are hereby confirmed for this transaction.

Listing Agent None is the agent of (check one): Seller exclusively
(Print Agent name) Both /Buyer & Seller

Selling Agent None is the agent of (check one): Buyer exclusively

(Print Agent name)

Both /Buyer & Seller

21. ADDENDUM ATTACHED: _____

22. CONSENT TO DISCLOSE: Buyer and Seller hereby consent to the procurement and disclosure by Buyer, Seller, Broker, and their attorneys, closing agents, and other parties having interest essential to this Agreement, of any and all information reasonably necessary to consummate the transaction described in this Agreement, specifically including access to escrow agents and lenders for review of contracts, deeds, trust indentures, inspections, or similar documents of prior transaction concerning this property or underlying obligations pertaining thereto.

23. COUNTERPARTS / FACSIMILE:

A copy of this document may be executed by each party, separately, and when each party has executed a copy thereof, such copies taken together shall be deemed to be a full and complete Contract between the parties. The parties agree that a facsimile copy of this Agreement to Sell and Purchase which contains the parties' signatures may be used as the original.

24. BUYER'S COMMITMENT:

Buyer agrees to purchase the above described Property on the terms and conditions set forth in the above offer and grants said sales Representative until _____ at _____ to secure Seller's written acceptance.

Buyer may withdraw this offer at anytime prior to Seller's written acceptance. If Seller has not accepted by the time specified, this offer is automatically withdrawn. Buyer hereby acknowledges receipt of a copy of this Agreement of Sell and Purchase-Commercial and Investment Properties, bearing Buyer's signature(s) and that Buyers have read and understand this Agreement.

Buyer's Phone: _____ Buyer's Signature: _____

Address: _____ Buyer's Signature: _____

25. SELLER'S COMMITMENT:

Seller agrees to sell and convey to Buyer the above-described Property on the terms and conditions hereinabove stated.

Seller acknowledges receipt of a copy of this Agreement bearing the signature(s) of Buyer and Seller.

Dated this _____ day of _____ At _____ am/pm.

Seller's Phone: _____ Seller's Signature: _____

Address: _____ Seller Signature: _____

26. DELIVERY TO BUYER OF A COPY OF ACCEPTED OFFER (use one of the following:)

Date _____
The undersigned buyer acknowledges receipt of a copy of this Contract bearing his / her signature and that of the Seller.

Date _____
A copy of this Contract bearing Buyer(s) signature and that of the SellSeller(s) was sent via ordinary or certified mail to Buyer.

Buyer

Agent

ACTION TAKEN, IF OTHER THAN ACCEPTANCE:

I/We acknowledge receipt of this agreement bearing my/our initial(s) and the signature(s) of the Buyer(s) named above.

Rejected by the Seller _____ / _____ / _____ Modified per Attached Counter _____ / _____ / _____
Seller's Initials Date Seller's Initials Date

Buyers initials / _____
Sellers initials

Exhibit A: Legal Description

Unit 1A together with an undivided 41 percent interest in the general common elements and limited common, if any, elements of **HISTORIC BABCOCK BUILDING**, Billings Original Townsite, a condominium project located on all of Lots 7-12 and a fractional portion of Lot 6 all in Block 93, according to the official plat on file in the Yellowstone County, Montana, Clerk and Recorder under Document No. 16312, as the unit boundaries and general and limited common elements are **established**, defined and identified in the Declaration of Unit Ownership for the Historic Babcock Building recorded June 25, 2010, under document No. 3553865, and the First Amendment to Declaration of Unit Ownership for Historic Babcock Building recorded on May 29, 2018, under Document No. 3850322, in the Yellowstone County, Montana Clerk and Recorder office.